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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/676,700	09/30/2003	Brian V. Belmont	042390.P16793	8134

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EXAMINER	
KARIKARI, KWASI	
ART UNIT	**PAPER NUMBER**
2617	
MAIL DATE	**DELIVERY MODE**
12/30/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/676,700	BELMONT ET AL.	
	Examiner	Art Unit	
	KWASI KARIKARI	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 October 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,5,7-9,12,14,22,23,26 and 28* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,5,7-9,12,14,22,23,26 and 28* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. In view of the Pre-Appeal Brief filed on 10/19/2009 PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

The Office action following a reopening of prosecution may be made final if all new grounds of rejection were **either (**A) necessitated by amendment or (B) based on information presented in an information disclosure statement under 37 CFR1.97(c) where no statement under 37 CFR 1.97(e) was filed. See MPEP § 706.07(a).

The final Office Action of 07/20/2009 is hereby being withdrawn. The reopening of prosecution will be made Final based on the amendment made in claims filed on 06/02/2009.

Response to Arguments

2. Applicant's arguments, filed on 06/02/2009with respect to the pending claims in the remarks, have been considered but are moot in view of the new ground(s) of rejection necessitated by the new limitations added to claim limitation.

Claims Objection

3. Claims 7,14 and 28 are objected because the amended independent claims do not specify which claimed limitation is related to "the signal" in the objected claims.

For complete examination purposes, the Examiner will broadly address all of the objected claims in light of the overall concept of Applicant's invention.

Appropriate corrections are therefore required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1, 5, 7-9, 12, 14, 22-23, 26 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simpson (U.S 20040266399 A1), (hereinafter Simpson) in view of MacNamara et al., (20040213396 A1), (hereinafter MacNamara).

Regarding claims 1, 8, and 22, **Simpson** discloses a method /machine readable storage/system for managing a cell phone call (= wireless telephone 100 communicates with system 604, see Par. 0029) comprising:

receiving an incoming call at a cell phone (= display of Caller ID on the wireless telephone 100 when incoming call is received; and a signal is sent back to the auto answer unit on system 604, see [0029-30]);

sending a notification of the incoming call to a data processing device in accordance with predefined preference of a user (= manner in which a call is handled may be predetermined, see [0016]; wireless telephone 100 is connected and in communication with system 604; and network 602; wireless telephone 100 set up and provide selected status announcements from wireless telephone user to a caller; and incoming call on wireless telephone which is connected with system 604 via network 602, see Pars [0029-30] and Fig. 6; whereby the "personal data processing device" is being associated with system 604 which is communication with the wireless telephone 100) the data processing device coupled to the cell phone via a connection (= wireless telephone 100 is connected with system 604 via network 602, see Par. 0029; and Fig. 6);

retrieving information associated with the incoming call (= calling number or Caller ID is displayed in the display 102, see Page 3, line 0022),

examining one or more of the predefined preferences of the user of the cell phone, a calendar of the user indicating availability of the user, and real-time instructions from the user, wherein examining includes determining whether a configuration is set such that a response is automatically sent to the incoming call (= personal announcement option/ list of announcement action, see Pars. 0007, 0016-17, 0024-26 and 0029-3); and

managing the incoming call according to the one of the predefined preferences and the real-time instructions, wherein the one of the predefined preferences and the real time instructions includes at least one of forwarding the incoming call, requesting a sender of the incoming call to send an instant message, and responding to the incoming call with a voicemail message (= personalized announcement/option, e.g., I am in the meeting right now, see Pars. 0016 and 0030), wherein the responding to the incoming call is adjusted according to one or more of the predefined preferences, the calendar, and the real-time instructions (= selection of real time personal message/announcement to play to a caller, see Pars. 0016, 0023, 0028 and 0031).

Simpson explicitly fails to disclose, "wherein retrieving includes obtaining the information from a plurality of sources when the information is not located in the cell phone, wherein the plurality of sources includes a local telephone list, a database stored on the data processing device, and a remote database coupled to the data processing device".

However, **MacNamara,** which is an analogous art, equivalently teaches "wherein retrieving includes obtaining the information from a plurality of sources when the information is not located in the cell phone, wherein the plurality of sources includes a local telephone list, a database stored on the data processing device, and a remote database coupled to the data processing device," (= call screening and alert system whereby a terminating office consults a blocking database to determine how an incoming call should be answered, see [0003, 0005-6, 0008-9 and 0036-37; whereby the consulting the blocking database, is being associated with "retrieving include...a remote database couple to the data processing device").

It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of MacNamara and Simpson for the benefit of achieving a communication system that allow customer to screen incoming calls such as calls from telemarketers.

Regarding claims 5, 12 and 26, **Simpson** further discloses a method according to claim 1,8 and 22 wherein responding to the incoming call with the voicemail message further comprises selecting one of a plurality of voicemail messages as the appropriate response (= the wireless telephone user can select a specific voice mail announcement or a general announcement that allows wireless phone to answer on his/her behalf, see Page 2, line 0016).

Regarding claims 7, 14 and 28, Simpson further discloses the according to claims 1,8 and 22, wherein the signal comprises an Attention Command (AT) signal (= incoming call, see [0022]).

Regarding claims 9 and 23, **Simpson** further discloses the method according to claims 8 and 22 wherein retrieving the information associated with the incoming call further comprises at least one of: retrieving the information from the cell phone (= wireless telephone displays the Caller ID in the display, see Page 2, line 0016); retrieving the information from the data processing device; and retrieving the information from a source coupled to the data processing device.

CONCLUSION

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of 33the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kwasi Karikari whose telephone number is 571-272-8566. The examiner can normally be reached on M-T (9am - 7pm). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Appiah can be reached on 571-272-7904. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8566. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Kwasi Karikari/
Patent Examiner: Art Unit 2617.

/Charles N. Appiah/
Supervisory Patent Examiner, Art Unit 2617